

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }  
FIRST NATIONAL BANK OF COVINA }

Appearances:

For Appellant: Morrison, Hohfeld, Foerster, Shuman &  
Clark, San Francisco  
For Respondent: A. A. Manship, Franchise Tax Commissioner

O P I N I O N

This is an appeal pursuant to Section 25 of the California Bank and Corporation Franchise Tax Act (Chapter 13, Statutes 1929) from the action of the Franchise Tax Commissioner in overruling the protest of the First National Bank of Covina against a proposed additional assessment in the amount of \$627.09 based upon the return of said bank for the year ended December 31, 1929.

The sole point involved on appeal is whether or not as a basis of this additional assessment there should have been included in the taxpayers net income the amount of \$17,187.22 which was received as interest from federal, state and municipal bonds. It is the position of the Appellant that because this income came from tax exempt sources its inclusion in the tax base is unconstitutional. The case of The Macallen Company v. Massachusetts, 279 U. S. 620, is cited in support of this proposition.

Upon authority of our decision in the matter of the appeal of the Vortex Manufacturing Company (filed August 4, 1930), and in view of the opinion of the Supreme Court of this State in the case of The Pacific Co., Ltd. v. Johnson, 81 Cal. Dec. 519, we are of the opinion that the action of the Commissioner in including this income in the tax base must be sustained.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the action of the Franchise Tax Commissioner in overruling the protest of the First National Bank of Covina against a proposed additional assessment of \$627.09, based upon the inclusion of income from tax exempt sources as disclosed in the report of said bank for the year 1929 under Chapter 13, Statutes of 1929, be and the same is hereby sustained.

Appeal of First National Bank of Covina

Done at Sacramento, California, this 14th day of May, 1931,  
by the State Board of Equalization.

Jno. C. Corbett, Chairman  
Fred E. Stewart, Member  
R. E. Collins, Member  
H. G. Cattell, Member

ATTEST: Dixwell L. Pierce, Secretary